IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

S.T.R. No. 60 of 2001
(Old No. 975/1994)

Commissioner of Sales Tax
U.P. Lucknow. ……..Applicant/Revisionist

Vs.

M/s Northern India Drugs Corp.
Dispensary Road, Dehradun. ……Opposite Party

Learned Standing Counsel for the Revisionist.
None for the Respondent.

Hon'ble Prafulla C. Pant, J.

This revision is filed under Section 11 (1) of U.P. Sales Tax Act, 1948. It is directed against the judgment and order dated 11.02.1994, passed by the Sales Tax, Tribunal, Haldwani Bench, Camp- Dehradun.

The question involved in this revision is whether the cattle feed comes within the definition of cattle fodder or not?

The relevant assessment years, to which this revision pertains, are 1986-87, 87-88 and 88-89. In view of the notification No. ST-11-3714/X-6 (1) 85 –U.P. Act 15/48 order 85 dated 05.06.1985, it has been clarified that cattle fodder includes green fodder, chuni, bhusi, chillka, chokar, javee (popularly known as Ghurjai), gowar, deoiled cake, deoiled rice polish, de oiled rice bran, and de oiled rice husk but not oil cake (khali), rice polish, rice bran and rice husk. In view of said notification, for the assessment years under consideration, only oil cake, rice polish, rice bran and rice husk, cannot be exempted from the tax but same is not the case in respect of the other cattle feed, which are included under the definition of cattle fodder.

In view of the aforesaid position of law, there is no error in the impugned judgment dated 11.02.1994, passed by the Sales Tax Tribunal, as the department has not shown, if any of the items in respect of which the assessee was the dealer, were covered under the exceptions as mentioned above.

In the circumstances, the question of law, as to the definition of cattle fodder is answered accordingly and the revision is dismissed.

(Prafulla C. Pant, J.)

Dt: 20.07.2005

Sweta